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**OAK RIDGE NATIONAL LABORATORY**

MANAGED BY LOCKHEED MARTIN ENERGY RESEARCH CORPORATION  
FOR THE U.S. DEPARTMENT OF ENERGY

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March 17, 1998

Mr. Peter D. Dayton  
Director, Procurement and Contracts Division  
Department of Energy  
Oak Ridge Operations Office  
Post Office Box 2001  
Oak Ridge, Tennessee 37831

Dear Mr. Dayton:

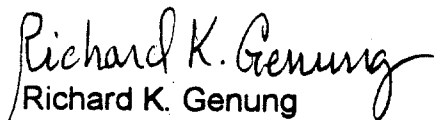
**Master Agreement for Services**

Enclosed is the signed, final Master Agreement for Services between Bechtel Jacobs Company, LLC and Lockheed Martin Energy Research Corporation.

Per the understanding between Bechtel Jacobs and DOE, we are forwarding the Agreement for your signature and return to Bechtel Jacobs for final distribution.

Please call Howard Rhude (241-0648) if you have questions.

Sincerely,



Richard K. Genung  
Executive Vice President  
Lockheed Martin Energy Research Corporation

RKG:bl

Enclosure

cc/enc: E. R. Bowers  
H. L. Rhude  
J. H. Swanks  
A. W. Trivelpiece  
File - RC

**BECHTEL ♦ JACOBS**

Bechtel Jacobs Company LLC

**000331**

Job No. 23900, Oak Ridge M&I Project  
DOE Contract No. DE-AC05-98OR2270  
WBS: 100

March 13, 1998

Mr. Gary D. Coxon  
Vice President  
Lockheed Martin Energy Systems, Inc.  
800 Oak Ridge Turnpike, Suite 300  
Oak Ridge, TN 37830

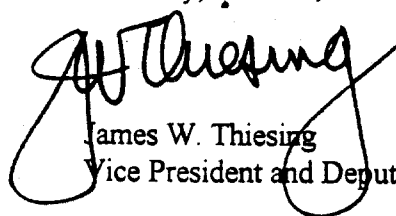
Mr. Richard K. Genung  
Senior Vice President  
Lockheed Martin Energy Research Corporation  
P.O. Box 2008  
Bethel Valley Road  
Oak Ridge, TN 37831-6241

Dear Messrs. Coxon and Genung:

Enclosed are the revised final Master Agreements for Services between Bechtel Jacobs Company LLC (Bechtel Jacobs Company), Lockheed Martin Energy Systems, Inc. (LMES), and Lockheed Martin Energy Research Corporation (LMER).

These Agreements contain the additional items that LMES requested be revised on March 12, 1998, and represent the final agreement of the Parties. Please execute the enclosed Agreements where appropriate and forward to DOE for concurrence as soon as possible.

Sincerely,



James W. Thiesing  
Vice President and Deputy General Manager

Enclosures

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000331

Mr. Gary D. Coxon  
Mr. Richard K. Genung  
March 13, 1998  
Page 2

cc: (all w/e)

Peter D. Dayton  
Marianne M. Heiskell  
Jennifer J. Fowler  
Lester K. Price  
Joe W. Parks  
Robert J. Brown

J. F. Nemec  
D. von der Linden  
R. E. Lynch  
J. H. Dunkirk

G. Wilson Horde  
Ann M. Ward  
Gary Draper  
Buddy Bowers  
David Rice  
Tim Myrick

# MASTER AGREEMENT FOR SERVICES

BETWEEN

LOCKHEED MARTIN ENERGY RESEARCH CORPORATION AND

BECHTEL JACOBS COMPANY LLC

THIS AGREEMENT is effective April 1, 1998, by and between Lockheed Martin Energy Research Corporation (LMER) pursuant to its authority under Prime Contract No. DE-ACO5-96OR22464 with the U. S. Department of Energy's (DOE) Oak Operations Office (ORO) and Bechtel Jacobs Company LLC (Bechtel Jacobs Company) pursuant to its authority under Prime Contract No. DE-ACO5-98OR22700 with DOE.

WHEREAS, the parties to this Agreement desire a simple and efficient process for performing work for each other that is responsive to the unique needs of each; minimizes administrative effort and cost; assures adequate management controls and accountabilities and encourages routine communication and quick resolution of issues.

WHEREAS, DOE has expressed its expectation that Bechtel Jacobs Company shall enter into an appropriate contractual relationship with other Prime Contractors performing services.

THEREFORE, in consideration of the mutual covenants and understandings herein, the Parties agree as follows:

## I. GENERAL

### A. TERMS OF AGREEMENT

Work performed at ORO facilities is broad based. Multiple Prime Contractors are engaged in providing the services necessary to accomplish this work. In order to provide a net benefit to the government, either Party may provide Services to and receive Services from the other. Services to be provided under this Agreement include the following:

"Project services" which consist of the transfer of a comprehensive work scope to the Performing Contractor and normally include milestones or significant deliverables and may include specific project reporting requirements.

"Technical Services" which consist of specific routine services (e.g., environmental monitoring, sample analysis, equipment calibration) and professional and consulting services.

"Site Services" which consist of services to maintain sitewide systems and processes, (e.g., payroll, badging, security) that are purchased by one Party and performed by the other Party pursuant to this Agreement.

In addition, when it is in the best interests of DOE and the Parties, an employee of one Party may be loaned to the other Party.

Nothing in this Agreement applies to Government Furnished Services, or to services acquired through an Intercontractor Work Order, or shall be deemed or allowed to interfere with the terms of the Parties' Prime Contracts with DOE. In the event of any inconsistency, the terms of the Parties' Prime Contracts shall control.

## B. TERMINOLOGY

The term "Requesting Contractor" refers to the ORO Contractor organization that is requesting the work. The term "Performing Contractor" refers to the ORO Contractor that is supplying services under a Work Authorization.

The term "Work Authorization" refers to the formal document that authorizes one Party to perform Work for the other. A copy of the Work Authorization form is attached hereto as Exhibit A. Authorized requesters of services are responsible for ensuring that their respective company's required reviews and approvals have been completed before issuing a Work Authorization. The Work Authorization shall include a description of the work, Authorized Requester's name, the Work Authorization number, amount of interim funding authorization, the Work Breakdown Structure Charge Code, and name of the responsible person in the Performing Contractor organization.

## C. CONFIDENTIALITY

All Confidential Information of either Party obtained pursuant to this Agreement will be held in confidence by the Receiving Party, and will not be disseminated to any other party (with the exception of its own employees on a need to know basis) without the express written consent of the Disclosing Party, except to the extent that such information is required to be disclosed by applicable law, the Prime Contract, an existing binding labor agreement, or pursuant to an audit or other proceedings by or on behalf of a Government Authority. Confidential Information as used herein means written or tangible information marked or otherwise identified as "Confidential", and shall not include information which (i) is known to the Receiving Party as documented by written records prior to receipt from the Disclosing Party; (ii) is or becomes publicly available other than by breach of this Agreement; (iii) the Receiving Party rightfully obtains from third parties other than by breach of this Agreement; or (iv) is independently developed by the Receiving Party as established by documentary evidence. These obligations will cease two years after completion of Work under this Agreement.

## II. PROVISION OF SERVICES

All Services provided by one Party to the other under this Agreement shall be performed in accordance with a written Work Authorization, and shall be subject to all of the following terms and conditions:

### A. INDEPENDENT CONTRACTOR

The Performing Contractor shall act as an independent contractor and not as the agent of the Requesting Contractor in performing Services, maintaining complete control over its employees and all of its lower-tier suppliers and subcontractors. Performing Contractor shall perform the Work or Services in accordance with its own methods, subject to compliance with other terms and conditions of this Agreement.

### B. AUTHORIZED REPRESENTATIVES

Before starting Work, Performing Contractor shall designate in writing an authorized representative to represent and act for Performing Contractor and shall specify any and all limitations of such representative's authority. Such representative shall be empowered to receive communications in accordance with this Agreement on behalf of Performing Contractor. Notification of a change of authorized representative shall be provided by ten (10) calendar days advance written notification to the Requesting Contractor.

### C. AUTHORITY OF REQUESTING CONTRACTOR PERSONNEL

The Requesting Contractor will designate a Services Agreement Administrator who will be responsible for administering the terms and conditions of this Agreement, and who shall act as the Requesting Contractor's authorized representative. Additionally, all correspondence shall be issued and received by the designated Services Agreement Administrator. The only individual authorized to direct the Performing Contractor to

deviate from the express, written terms of this Agreement is the authorized Services Agreement Administrator.

The Requesting Contractor will designate Services Agreement Technical Representatives (STR) who will be responsible for the technical aspects of the performance of this Agreement. The STRs may designate other personnel to oversee the performance of the Work, sign field tickets, etc. However, the designated STRs retain ultimate authority over the technical aspects of the Work. The STRs do not possess authority, express or implied, to direct the Performing Contractor to deviate from the terms and conditions of this Agreement.

Notification of a change of Services Agreement Administrator or STR shall be provided by ten (10) calendar days advance written notification to the Performing Contractor.

#### **D. CHANGES**

Requesting Contractor may at any time, by written Change Notice, direct additions, deletions or changes, including acceleration or deceleration, to all or any part of the Work and Performing Contractor agrees to perform such Work as changed, except that Performing Contractor shall not be required to perform any change that is inconsistent with DOE direction or its obligations under its Prime Contract. Performing Contractor shall immediately inform Requesting Contractor of its inability to perform a requested change due to inconsistency with its Prime Contract obligations or DOE direction. If any Change Notice causes an increase or decrease in Performing Contractor's cost of, or the time required for the performance of any part of the Work an equitable adjustment shall be made and this Services Agreement modified by written modification signed by both parties. All other modifications to this Services Agreement shall only be by written modification signed by both Parties.

#### **E. RESPONSIBILITIES OF PERFORMING CONTRACTOR**

Performing Contractor will perform the Work under this Agreement to the standards and with the degree of skill and sound practices and judgment that is required by Performing Contractor's Prime Contract. Performing Contractor shall reperform all deficient work at Requesting Contractor's request and cost. Requesting Contractor's sole remedy for failure to meet this requirement is termination of the Work Authorization.

#### **F. LABOR, PERSONNEL AND WORK RULES**

Consistent with binding labor agreements, Performing Contractor shall employ only competent and skilled personnel to perform the Work under this Services Agreement. At any time, Requesting Contractor may request the removal from the Work of any Performing Contractor personnel who are unable to obtain a necessary security clearance or, at Requesting Contractor's sole discretion, who are determined to be unfit or acting in violation of any provision of this Services Agreement, including, but not limited to Site work, safety or security rules. Upon such request, Performing Contractor shall remove the identified personnel, unless the Performing Contractor makes a good faith determination that such removal would be inconsistent with existing binding labor agreements, or with existing binding and enforceable policies or procedures applicable to such personnel actions, including equal employment opportunity/affirmative action, employee conduct/employee discipline, employee freedom to express concerns without reprisal, or its Employee Concerns Response Program.

Consistent with binding labor agreements, the procedures, regulations and work rules, including, but not limited to, Site working hours and security and safety requirements, that are to be followed in the performance of the Work shall be specified in the Work Authorization applicable to the Services to be performed.

The Performing Contractor shall make the following information available to the Requesting Contractor by the fifteenth of each month relating to Work activities of the prior month: 1) the number of person-hours

worked, 2) the number of lost workday cases, 3) the number of lost workdays, 4) the number of total OSHA recordable cases, 5) the number of restricted workday cases, and 6) the number of restricted workdays.

## **G. FORM OF AGREEMENT**

Unless otherwise agreed by the Parties, all Services will be provided on an allowable cost plus negotiated fee basis.

## **H. REQUEST FOR SERVICES - RESPONSIBILITY FOR COSTS AND OBLIGATIONS OF THE PARTIES**

### **1. WORK AUTHORIZATION**

The Requesting Contractor shall prepare a Work Authorization that specifies the scope of Work to be performed, and that includes, at a minimum, adequate definition of the requested work, period of performance, deliverables, WBS charge code number, milestones and hold point, if any, and applicable procedures, regulations and work rules, including quality assurance and safety requirements and other requirements particular to the work requested. The terms of the Work Authorization shall become a binding agreement to perform the work as specified, only upon written acceptance of the Work Authorization by an authorized representative of Performing Contractor. Absent specific direction on any aspect of the work, the Performing Contractor shall use best practices as defined by its own internal policies and procedures.

### **2. COST ESTIMATE**

The Performing Contractor shall prepare and provide to the Requesting Contractor a complete estimate of the full cost to perform the requested work, the resources required, and other information such as clarification of schedule or deliverables.

### **3. FUNDING AND COST OVERRUNS**

The Parties will agree on the final scope and estimated cost. The Requesting Party shall fund the work on either an incremental or lump sum basis depending on the size of the project and the availability of funds. Potential overruns shall be identified in writing and communicated to the Requesting Contractor at least 30 days in advance of an actual overrun so that a mutual course of action can be developed. In no event shall Performing Contractor be required to perform Work or incur costs or expenses in excess of the amount authorized for payment under a Work Authorization. Beginning April 1, 1998, through September 30, 1998, the Requesting Contractor shall be provided financial data from the Performing Contractor's cost accounting system for the review and retrieval of data as appropriate. For the period beginning October 1, 1998, the Performing Contractor, Requesting Contractor, and DOE shall mutually develop and agree to accounting data, information, and reports to be provided to meet DOE fiscal reporting requirements. In addition, Requesting Contractor shall have the right to request the Performing Contractor to audit records from Performing Contractor's subcontractors who are performing Work under this Agreement.

### **4. INDIRECT AND OVERHEAD RATES**

Changes to the Performing Contractor's indirect or overhead rate that differ from the cost estimate are chargeable to the authorized work, even though this may result in an overrun. When indirect or overhead rate changes are anticipated, the Requesting Contractor shall be advised in a timely manner. If there is a late or unexpected cost, other than an indirect or overhead rate revision, and the work authorization is not open in the fiscal year in which the cost is recorded, the disposition of the cost will be negotiated with DOE.

### **5. AUTHORIZED AMOUNT**

The Performing Contractor, by accepting the Work Authorization, is responsible for ensuring that the Work is performed in accordance with these requirements and that the Work can be completed for the amount

authorized or, in the alternative, providing timely notification as specified herein to the Requesting Contractor of cost, schedule or deliverable deviations.

#### 6. LIABILITY, FINES AND PENALTIES

Each Party's liability to the other Party, to parties related to the other Party, and to third persons arising out of or in connection with this Agreement, shall be governed by the provisions of that Party's Prime Contract, provided, however, that allowable costs will be paid from Department of Energy program funds allocated for the activities that give rise to the liability.

To the extent that any fines, penalties, or other costs related to work under this Agreement, resulting from a party's alleged breach of any law, regulation, permit, order, DOE Order, nuclear or Site safety requirement or the required standard of performance, are determined to be unallowable costs, such costs shall be the responsibility of the Party primarily responsible for any such alleged breach, without regard to which Party is assessed the fine or penalty or is responsible under its Prime Contract for such costs. Negotiation and resolution of any such matter with the regulatory agency shall be the joint responsibility of both Parties.

Except as provided otherwise in other sections of this Agreement, neither Party shall be liable to the other Party for consequential, indirect or special damages, including loss of fee arising out of the activities contemplated by this Agreement, or cost incurred by the other Party "in connection with a proceeding" as that phrase is used in the Major Fraud Act.

#### I. INTELLECTUAL PROPERTY (IP)

With regard to the IP that a Party may acquire or create through the performance of its employees under this Services Agreement, the rights of that Party to develop and/or commercialize such IP shall be governed by the terms and conditions of the respective Prime Contract, applicable DOE requirements, and applicable state and federal law.

#### J. TERMINATION

Unless agreed otherwise in a written Work Authorization, either Party may, at its option, terminate any of the Work under this Agreement in whole, or in part, at any time by 90 day written notice to the other Party. Such notice shall specify the extent to which the performance of the Work is terminated and the effective date of such termination. Upon such notice, Performing Contractor shall discontinue the Work in accordance with the notice; assign to Requesting Contractor or cancel upon terms satisfactory to Requesting Contractor any purchase order, subcontracts, rentals, or other agreements existing for performance of the terminated Work; maintain, protect and disposition work in progress, plant, tools, equipment, property, and materials acquired by Performing Contractor or furnished by Requesting Contractor under this Agreement; and complete performance of the portion of the Work that is not terminated.

The sole right and remedy of Performing Contractor upon termination shall be payment of the agreed cost and fee corresponding to the work performed in accordance with this Agreement prior to the effective date of termination, and termination costs, which shall include only the costs incurred in demobilization and disposition of residual material, plant and equipment, and reasonable administrative costs of settling and paying claims arising out of the termination of work under purchase orders or subcontracts. Within 30 days after the date of termination, Performing Contractor shall submit to Requesting Contractor a written statement setting forth the termination costs. The costs of any severance or layoff pay and allowances related to any termination of Work shall be identified to DOE for disposition as an EM Program cost.

#### K. DISPUTES RESOLUTION

(a) The Parties agree to make good-faith efforts to settle any dispute or claim that arises under this Agreement through discussion and negotiation. If such efforts fail to result in a mutually agreeable resolution, the parties shall present the issue (except for issues described in paragraph (b) below) to the Director of DOE's Procurement and Contracts Division for final, binding resolution. The Parties recognize



that the cost of pursuing resolution of the issue(s) described in subparagraph (b) will not be allowable under either Party's contract with DOE.

(b) A dispute arising under Paragraph II. H. 6., entitled "Liability, Fines and Penalties", as to who should be financially responsible for a cost which has been determined to be unallowable, shall not be presented to DOE for resolution.

(c) For the issues described in (b) above, the Parties agree to make good-faith efforts to settle the dispute or claim through discussion and negotiation. If such efforts fail to result in a mutually agreeable resolution, the parties agree to use non-binding Alternative Disputes Resolution (ADR). The site of the proceedings shall be Oak Ridge, Tennessee. Cost shall be allocated by the mediator or arbitrator, except that there shall be no pre-decisional interest costs, and each party shall bear its discretionary costs.

(d) Any litigation shall be brought and prosecuted exclusively in Federal District Court, with venue in the United States Court for the Eastern district of Tennessee, Northern Division, provided, however, that in the event the requirements for jurisdiction in Federal District Court are not present, such litigation shall be brought in either Anderson, Knox, or Roane County Tennessee, in the Circuit or Chancery Court, as appropriate.

(e) Irrespective of the place of performance, the provisions in this Agreement shall be construed and interpreted according to the federal common law of government contracts as enunciated and applied by federal judicial bodies, boards of contract appeals, and quasi-judicial agencies of the federal government. To the extent that the federal common law of government contracts is not dispositive, the laws of the State of Tennessee shall apply.

(f) There shall be no interruption in the performance of the work, and each Party shall proceed diligently with the performance of this Agreement pending final resolution of any dispute arising under this Agreement between the parties hereto or between a Party and its subtier subcontractors.

### III. LOANED PERSONNEL

The Parties may determine from time to time that it is necessary or appropriate to arrange for an employee of one Party to be loaned to the other Party to effectively perform Work at ORO facilities. All such loaning of personnel shall be subject to the following terms and conditions:

#### A. DIRECTION AND CONTROL

The Loaned Employee shall be under the supervision, direction and control of the Requesting Contractor at all times during the performance of services under this Agreement. Requesting Contractor shall advise Loaned Employee of all of Requesting Contractor's procedures, regulations, and work rules, including, but not limited to Site work, safety or security rules, and Loaned Employee shall be directed accordingly by Requesting Contractor.

#### B. LIABILITY

The Providing Contractor makes no guarantee as to the effectiveness or technical, economic or environmental feasibility of any method, technique, or process implemented by Requesting Contractor or third parties as a result of the activities of the Loaned Employee. The Providing Contractor shall have no liability to the Requesting Contractor for loss or damage, including loss or damage to property of Requesting Contractor or others, arising out of or resulting from the activities of the Loaned Employee.

#### C. COMPENSATION OF EMPLOYEE

The Providing Contractor shall be responsible for the payment of Loaned Employee's salary, payroll taxes, Worker's Compensation and employee benefits, but Loaned Employee shall be deemed to be an employee on loan to Requesting Contractor.

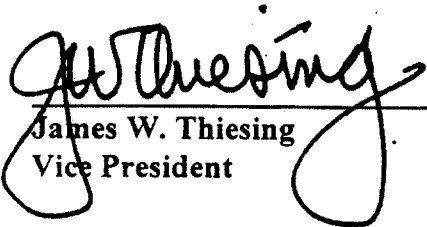
**D. PAYMENT**

The Requesting Contractor shall pay to the Providing Contractor for furnishing the Loaned Employee an amount equal to the following: the actual salary Providing Contractor pays to Loaned Employee for time expended in the performance of the work hereunder, plus standard payroll additives (including any applicable fringe benefits), plus any other ~~direct~~ costs incurred by Loaned Employee in accordance with Providing Contractor's established policies, in performance of activities hereunder. Providing Contractor shall submit to Requesting Contractor an invoice each month by the fifteenth day of the month for amounts due as stated in this paragraph.

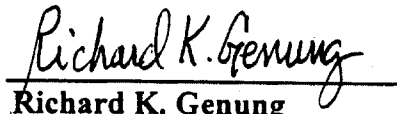
Providing Contractor shall keep accurate records showing the actual cost of all items of direct costs for which payment is to be made under this Agreement. Beginning April 1, 1998, through September 30, 1998, the Requesting Contractor shall be provided financial data from the Performing Contractor's cost accounting system for the review and retrieval of data as appropriate. For the period beginning October 1, 1998, the Performing Contractor, Requesting Contractor, and DOE shall mutually develop and agree to accounting data, information, and reports to be provided to meet DOE fiscal reporting requirements,

**E. TERMINATION**

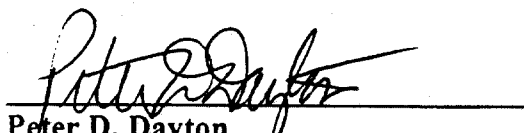
The agreement to loan an employee may be terminated at the option of either Party upon 30 days prior written notice to the other Party.

**BECHTEL JACOBS COMPANY LLC**


James W. Thiesing  
Vice President

**LOCKHEED MARTIN ENERGY RESEARCH CORPORATION**


Richard K. Genung  
~~Senior Vice President~~  
Executive Vice President

**CONCURRENCE:****DEPARTMENT OF ENERGY**


Peter D. Dayton  
Director, Procurement and  
Contracts Division